

1 LEON DAYAN (State Bar No. 153162)  
ABIGAIL V. CARTER\*  
2 RAMYA RAVINDRAN\*  
LANE M. SHADGETT\*  
3 J. ALEXANDER ROWELL\*  
**BREDHOFF & KAISER P.L.L.C.**  
4 805 Fifteenth Street NW, Suite 1000  
Washington, DC 20005  
5 Telephone: (202) 842-2600  
Facsimile: (202) 842-1888  
6 ldayan@bredhoff.com  
acarter@bredhoff.com  
7 rravindran@bredhoff.com  
lshadgett@bredhoff.com  
8 arowell@bredhoff.com  
\*Application *pro hac vice* forthcoming

9 Daniel Feinberg, SBN 135983  
10 Catha Worthman, SBN 230399  
Anne Weis, SBN 336480  
11 **FEINBERG, JACKSON, WORTHMAN  
& WASOW, LLP**  
12 2030 Addison Street, Suite 500  
Berkeley, CA 94704  
13 Tel. (510) 269-7998  
Fax (510) 269-7994  
14 dan@feinbergjackson.com  
catha@feinbergjackson.com  
15 anne@feinbergjackson.com

16 *Attorneys for Plaintiffs*

17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**  
19 **SAN FRANCISCO DIVISION**

20 AMERICAN FEDERATION OF  
21 GOVERNMENT EMPLOYEES, AFL-CIO, et  
al.,

22 Plaintiffs,

23 v.

24 DONALD J. TRUMP, in his official capacity as  
25 President of the United States, et al.,

26 Defendants.  
27  
28

Case No.: 3:25-cv-03070-JD

**DECLARATION OF MARY-JEAN  
BURKE**

## DECLARATION OF MARY-JEAN BURKE

I, Mary-Jean Burke, declare as follows:

1. I am over 18 years of age and competent to give this declaration. This declaration is based on my personal knowledge, information, and belief.

2. I am a physical therapist at Richard L. Roudebush VA Medical Center in Indianapolis, Indiana. I was hired to provide in-patient physical therapy in an acute care setting. I have worked for the Department of Veterans Affairs for 29 years.

3. I have been the First Executive Vice President for the National Veterans Affairs Council (NVAC) of the American Federation of Government Employees since 2007.

4. NVAC represents nationwide bargaining units of approximately 300,000 professional and non-professional employees who work at nearly every administration and component of the Department of Veterans Affairs, including the Veterans Health Administration, Veterans Benefits Administration, National Cemetery Administration, and operational components such as, but not limited to, the Office of Information & Technology, Office of Finance, Office of Emergency Management, and the VA History Office. The largest number of AFGE-represented workers are employed at urban hospitals and rural clinics under the Veterans Health Administration; these employees include physicians, dentists, pharmacists, physical and occupational therapists, housekeepers, engineers, custodians, cooks, and numerous other healthcare and support staff. Represented workers in other VA administrations and components include cemetery workers, gardeners, archivists, security officers, claim processors, clerical workers, firefighters, IT professionals, bookkeepers, and numerous other civil servants. On its face, the March 27, 2025 Executive Order titled "Exclusions from Federal Labor Management Relations Programs" ("Executive Order") appears to cover all of the workers in NVAC's bargaining units other than police and firefighters.

5. NVAC's mission is to support and advocate for the federal employees who take care of our nation's veterans, including working for a safe and fair workplace for all members. Nearly 40 percent of NVAC's members are themselves veterans. As the exclusive bargaining

Declaration of Mary-Jean Burke

representative of these workers, NVAC provides many services to all bargaining unit employees. Core functions of the Union include working in a mutually respectful partnership with the Department of Veterans Affairs to secure a fair and reasonable master collective bargaining agreement (“MCBA”); negotiating implementation of new policies during the term of the MCBA; filing and prosecuting grievances (locally and nationally) against the agency to enforce the terms and conditions of the MCBA; representing workers in arbitration and before professional standards boards; participating in safety inspections and negotiating safety abatements; and providing guidance and support to members navigating USERRA, EEO, and other federal processes.

6. The Executive Order will have an immediate adverse effect on the Union’s ability to provide these services to unit members and to accomplish its mission. The Executive Order will also have an immediate adverse impact on workers in the bargaining unit.

7. If the Union is no longer the exclusive bargaining representative of the unit, the Union cannot enforce the MCBA on behalf of members. AFGE has a bargaining relationship with the agency going back to 1982. The current MCBA is effective as of August 8, 2023; it has a term of three years with automatic one-year renewals after that. The MCBA provides important rights and protections to workers at the Department of Veterans Affairs, including:

- a. Sets terms and conditions for working hours, overtime, sick leave, holidays, and paid time off for workers in the unit.
- b. Outlines processes for fair reassignment, relocation, shift change, and telework decisions.
- c. Ensures the Union can participate in safety inspections and imposes safety and health requirements to ensure the welfare of both workers and patients.
- d. Establishes protections for workers regarding reduction-in-force (“RIF”) actions and procedures.
- e. Imposes procedures for disciplinary actions against workers and creates guardrails for the use of surveillance and monitoring in disciplinary proceedings.

- f. Guarantees employees a reasonable opportunity of 90 days to address identified performance concerns before the agency takes adverse action.
- g. Provides for an Employee Assistance Program for individuals who have problems associated with alcohol, drug, marital, family, legal, financial, stress, attendance, and other personal concerns.
- h. Establishes alternative dispute resolution, grievance, and arbitration procedures for employees and the Union to resolve disputes with the agency over employment matters.
- i. Provides for official time, which allows bargaining unit employees to perform union representation activities during certain amounts of time the employee otherwise would be in a duty status, without loss of pay or charge to annual leave.

Without the Union to represent them and enforce the MCBA, the workers will not have the benefit of those rights and protections going forward. I understand that the agency is directed to rescind the MCBA under the Executive Order.

8. There are currently 12 pending national grievances filed this year under the MBCA and dozens of pending grievances to vindicate individual worker rights that will go unresolved if the Executive Order is implemented. I—and other Union officials—have spent considerable time researching and discussing these grievances with members, agency leadership, and the public. The national grievances include grievances related to the agency’s decisions to:

- a. Bypass the Union and refuse to bargain in good faith regarding the “fork in the road” deferred resignation program;
- b. Repudiate MCBA provisions providing for telework, issue a unilateral return-to-office directive, and summarily delay employees’ requests for telework as a reasonable accommodation;
- c. Defy MCBA provisions and arbitrator rulings providing employees 90 days to improve performance;

- d. Refuse to bargain in good faith regarding implementation of VA Accountability & Whistleblower Protection Act procedures;
- e. Implement mass terminations of probationary employees at the direction of the Office of Personnel Management;
- f. Unilaterally apply a new VA Flag Display Policy to Union bulletin boards and offices;
- g. Direct employees to respond to OPM emails titled “what did you do last week?” without bargaining in good faith or compensating employees on non-duty status;

9. NVAC’s staff and activities are funded through members’ voluntary dues, the vast majority of which are paid through payroll deduction from their pay. If NVAC can no longer receive dues through payroll deduction under the Executive Order, that will make it significantly more difficult for the Union to continue to function and to provide the services and protections to unit members listed above.

10. Official time is very important to enable bargaining unit workers with union roles to perform representative activities on behalf of their coworkers while on government time. I, and other union officers, use official time to

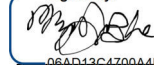
- a. Represent workers in the researching and drafting of national and individual grievances and in proceedings before arbitrators, disciplinary boards, and the Federal Labor Relations Authority
- b. Assist employees with investigations and navigating payroll, USERRA, EEO, and workers compensation processes;
- c. Participate in safety inspections and negotiate with the agency regarding health and safety risk abatement strategies;
- d. Negotiate the MCBA and implementation of new initiatives, such as deploying new technologies or changing telework policies, during the term of the MCBA.

11. Taking union representatives off official time will hamstring NVAC’s ability to perform its fundamental functions of representing VA employees in their daily workplace lives.

1           12.     The Executive Order is having a chilling effect on workers' speech and activity at  
2 the VA. I know personally that without union advocates, workers may be subject to arbitrary  
3 discipline, unfair policies, and unsafe working conditions; as NVAC advocates for VA  
4 employees, I fear that worsened working conditions for our members is also likely to result in  
5 worse care for our nation's veterans. Without the protections of the MCBA, agency management  
6 would be able to retaliate against those who speak out against such conditions. From my  
7 interactions with other VA employees, I believe many workers will feel pressure to conform to  
8 the administration's political views and be reluctant to raise health and safety concerns or  
9 otherwise criticize agency management, for fear of further retaliation.

10  
11           I declare under penalty of perjury under the laws of the United States that the foregoing is  
12 true and correct. Executed April 1, 2025, in Washington, D.C.

Signed by:



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Mary-Jean Burke